

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MARK J GOSSETT,

Plaintiff,

v.

JASON BENNETT,

Defendant.

Case No. 3:24-cv-05501-TMC

ORDER ADOPTING REPORT AND  
RECOMMENDATION

The Court, having reviewed the Report and Recommendation of Magistrate Judge David W. Christel, objections to the Report and Recommendation, if any, and the remaining record, does hereby find and ORDER:

(1) The Court adopts the Report and Recommendation.

- a. Mr. Gossett has not filed any objections in this case. Within the time for objections, he did file a notice of supplemental authority citing *Erlinger v. United States*, 144 S. Ct. 1840 (2024). Construing this broadly as an objection, the Court has conducted de novo review of the Report and Recommendation. Fed. R. Civ. P. 72(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

b. *Erlinger* has no bearing on the reason Judge Christel has recommended dismissal: that this action is a second or successive habeas petition filed without authorization from the Court of Appeals. *See* Dkt. 6 at 3; 28 U.S.C. § 2244(b)(3) and (4); *Magwood v. Patterson*, 561 U.S. 320, 331 (2010).

c. This Court has conducted an independent review of the record and agrees with Judge Christel that Mr. Gossett's petition should be construed as one brought under 28 U.S.C. § 2254, is second or successive, and must be dismissed.

(2) Petitioner's federal habeas Petition, which is second or successive, is dismissed without prejudice for lack of jurisdiction.

(3) Petitioner's IFP Motion (Dkt. 1) and his other pending Motions and Requests (Dkts. 1-8, 1-8, 1-10, 4, 5, 8, 9, 11, 13, 14) are denied as moot.

(4) A certificate of appealability is denied in this case.

(5) The Clerk is directed to send copies of this Order to Petitioner and to the Hon. David W. Christel.

Dated this 13th day of August, 2024.

A handwritten signature in black ink, appearing to read 'Tiffany M. Cartwright', is written over a solid black horizontal line.

Tiffany M. Cartwright  
United States District Judge